

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**BAY STATE GAS COMPANY**

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**D.T.E. 05-27**

**BRIEF OF THE UNITED STEELWORKERS OF AMERICA, AFL-CIO**

**I. Statement of the Case**

In this case, Bay State Gas (“BSG”) has come before the Department requesting a substantial consumer rate increase, providing the Company approximately \$22 million dollars annually. *See* BSG-SHB-1, 4. Substantial evidence was set forth at hearing regarding the Company’s consistent history of poor customer service, the Company’s inability and failure to consistently maintain appropriate staffing levels at the Company’s Springfield Call Center, and its use of slap-shod methods to achieve Service Quality Indicators (“SQI”) in both its BSG and Northern Utilities jurisdictions.

Furthermore, during the pendency of the rate case, BSG’s parent company, NiSource, executed a \$1.6 billion agreement, which includes provisions for the outsourcing or elimination of all BSG customer service, billing, and credit positions. The record of this case reflects that BSG has not been forthcoming regarding the status and content of the agreement between NiSource and IBM with the Department and intervenors. At every step, BSG has delayed and failed to provide critical information regarding the status of the NiSource-IBM Agreement.<sup>1</sup> *See*

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<sup>1</sup> Given this Company’s “reticence” and actions regarding the IBM-NiSource Agreement during the course of this hearing, the Department should consider the historical credibility of BSG and its parent Company, NiSource, Inc., as well as its actions as a corporate citizen, in determining whether a rate hike is appropriate. *See* Initial Brief of the Utility Workers Union of America, Section III.

In 1999, during DTE hearings regarding the merger of NiSource and BSG, BSG provided testimony that lay offs would be avoided and that efforts would be made to maintain a strong presence within Massachusetts. *See* Testimony of Nancy Brockway, UWUA Ex. 4. Since NiSource took over BSG in 1999, it has reduced the number of jobs in Massachusetts by over 30%. BSG Response to UWUA 1-1.

Furthermore, simultaneous with this hearing, BSG has announced that it would likely layoff all Call Center employees at the Springfield Call Center. *See* Testimony of Jody Ajar, USWA Ex. 1, Attachment JA-3. The

Footnote 1, *supra*. Notwithstanding the Company's actions, substantial evidence was adduced at hearing demonstrating the Company's complete failure to analyze and compare the relative costs and benefits of outsourcing these functions under the NiSource-IBM agreement, including the maintenance and promotion of service quality and protections for confidential customer information, and bargain alternatives with its constituent unions. Instead, BSG deferred to NiSource which is particularly troubling given BSG's extremely poor service quality performance since its merger with NiSource. Additionally, evidence was proffered suggesting that outsourcing customer service and billing functions would only serve to exacerbate BSG's already dismal record of customer service.

Finally, BSG admitted that any projected cost savings reflected in the IBM-NiSource Agreement had not been factored into rate proposal. Thus, to the extent BSG adopts the IBM-NiSource Agreement, consumers will not reap benefits of any projected cost savings from this outsourcing plan. *See* BSG Response to UWUA 3-8.

On these bases, the United Steelworkers of America urges that any increase in consumer base rates granted to BSG should occur only if accompanied by an order from this Department setting forth more stringent quality service indicators complemented by minimum staffing levels within the state of Massachusetts, thus securing that the recent gains made by the Company in the test year, with regard to consistently meeting service quality indicators are not lost during the rate

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Company has been extremely reticent about providing any documentation to the Department, and intervenors, regarding its outsourcing plans. *See* BSG Responses to AG 24-2 to AG 24-22; AG 27-1 to AG 27-6; USWA 1-1 to 1-10; USWA 3-1 to 3-10; UWUA 4-1.

Finally, outsourcing will have an extreme and negative effect on the Springfield metropolitan community. As described in detail in the pre-filed testimony of Helen Vonmaluski, USWA Ex. 2, at least 52 of the 69 union members working at the Springfield Call Center are the sole bread winners and the sole source of health insurance for their families. *Id.* at 3. Moreover, comparable jobs are not available in the area, and few employees have the ability to move to areas with greater access to comparable employment. *Id.* at 3-4; *see also* Prefiled Testimony of Jody Ajar, USWA Ex. 1, 18-19.

year or any time thereafter.<sup>2</sup>

## **II. Abstract of Evidence**

### **A. The Evidence Presented At Hearing Reflects that NiSource rather than BSG has Sole Control over Staffing Decisions at Bay State and that NiSource Has Willfully Failed to Provide Adequate Call Center Staffing, Even Where BSG Call Centers Were Failing to Meet SQIs.**

Since its merger with NiSource in November 1999, NiSource, rather than BSG, has had sole authority over staffing decisions, including collective bargaining agreement negotiations and administration, setting staffing levels, hiring, discipline and termination, at BSG's Springfield Call Center.<sup>3</sup> Tr. at 207-08, 212-13, 1654-56, 1686-91.

Between November 1999 and December 2003, staffing levels at BSG dropped precipitously; during this period, BSG lost approximately 30% of its employees. Tr. at 1931; UWUA Ex. 4, at 33-4; BSG Response to USWA 2-6; BSG Response to UWUA 1-1. The Springfield Call Center alone lost 51 employees. BSG Response to USWA 2-6. This significant change in staffing levels was due, in large part, to a hiring freeze instituted by NiSource between December 1, 2001 to sometime in Spring 2003.<sup>4</sup> USWA Ex. 1, Attachment JA-1; Tr. at 1627.

As admitted by BSG President Stephen Bryant ("Bryant"), during this period, low staffing levels were a significant factor in the Springfield Call Center's poor customer service and failure to meet customer service Service Quality Indicators. Tr. at 1625, 1654, 2025, 2047-48. BSG

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<sup>2</sup> The USWA hereby incorporates and seconds Sections III, IV(C)(1), and V of the Initial Brief of the Utility Workers Union of America, Local 273 ("UWUA") with permission of their counsel, Charlie Harak.

<sup>3</sup> Bryant testified that Violet Sistovaris, a NiSource VP, had sole authority over staffing decisions involving the BSG Call Center. Tr. at 1654-56. Furthermore, Bryant stated that he had no involvement in hiring decisions. Tr. 210-211. In fact, Bryant was adamant that although he had authority over ensuring service quality, that he was not authorized to require new hires, even if service quality indicators were not being met due to low staffing, nor would he necessarily request that staffing be increased to improve SQIs. Specifically, Mr. Bryant testified that if he found that the Call Center was not meeting SQIs for Bay State or Northern Utilities jurisdictions, he would contact Ms. Sistavaris at NiSource who would decide how best to proceed. Tr. at 210-11; 1654-66.

<sup>4</sup> Furthermore, when the hiring was lifted for the Springfield Call Center, primarily part-time employees were hired. See BSG Response to USWA-RR-3.

failed to meet its customer service SQIs in CY 2000 and CY 2001.<sup>5</sup> See BSG Response to USWA 2-20(c), (d). Additionally, although DTE customer service SQIs are reported on an annual, rather than a monthly basis, BSG failed to make DTE SQI standards for the first nine months of 2003.<sup>6</sup> UWUA 2-13(a); UWUA Ex. 4 at 9. Subsequently, DTE opened an investigation on BSG's service quality for CY 2002. Tr. at 2648 (DTE 3-10). Furthermore, in 2003, J.D. Power ranked BSG 47 out of 53 within the industry in providing customer service and 44 out of 56 in billing and payment.<sup>7</sup> Tr. at 2024; USWA 2-19(a).

During this period, the Springfield Call Center was also unable to meet its SQIs for Northern Utilities, and was subject to a number of investigations and audits regarding the same. In 2002, the New Hampshire PUC investigated complaints regarding Northern Utilities provision of customer service, leading to an investigation of the Call Center. Tr. 2647-48. As a result of its investigation, New Hampshire imposed monthly SQI standards for Northern Utilities. Tr. at 2647-48. From January to June 2003 and February 2004 to March 2004, the Call Center continued to fail to meet New Hampshire SQIs. See BSG Response to USWA 2-20 (h),(i).

Due to its service quality lapses, Northern Utilities was also subject to Maine PUC management audit, which included an investigation of service quality issues at the Call Center

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<sup>5</sup> This is particularly troubling given that prior to the merger of NiSource and BSG, and NiSource's subsequent oversight of BSG's staffing and operations, BSG had extremely high Service Quality Indicator levels. See Pre-Filed Testimony of Nancy Brockway, UWUA Ex. 4, at 7-8.

<sup>6</sup> Furthermore, BSG's claims that it successfully met DTEs SQI standards in 2002 and 2004, at least with regard to the percentage of non-emergency calls answered by the Call Center within 30 seconds must be viewed with considerable skepticism for two reasons. First, the statistic presented in CY SQI reports includes calls answered by BSG's electronic answering system, IVR. See UWUA Ex. 4 at 12. Calls handled by the IVR system are considered answered as soon as the IVR system picks up, or immediately upon answering. *Id.* This would substantially skew the percentage of calls answered within 30 seconds in favor of the Company. *Id.* Additionally, the Company has admitted that it has a consistent practice of assigning Call Center representatives to take messages exclusively and call customers back after hours to handle their calls. Calls in which only a message is taken are considered calls answered for the purposes of the SQI statistics. *Id.*

<sup>7</sup> Customer Service Representatives received multiple complaints from BSG customers regarding their failure to get through. See USWA Ex. 1 at 9.

and an investigation for billing irregularities in 2002.<sup>8</sup> UWUA Ex. 4, 19; Tr. at 1643.

At hearing both BSG President Bryant and Pat Teague, the Call Center manager during this period, noted that they had informed NiSource that staffing was too low and was a significant factor in the failure of BSG and Northern Utilities to meet their SQIs. *See* footnote 3, *supra*. Sometime in 2003, the NiSource hiring freeze was apparently lifted.<sup>9</sup> Once staffing was substantially increased at the Springfield Call Center in late 2003, BSG met its SQIs consistently. BSG Response to UWUA 2-13(a); BSG Response to AG 18-08 (CY 2003 and 2004 SQI Reports); *cf.* USWA-RR-3. Notably, these improvements in service quality did not commence until October 2003, three months prior to the beginning of the test year. *Id.*

NiSource's actions, significantly lowering staffing levels at BSG at the expense of customer service, are completely inconsistent with its representations during DTE hearings over the merger between BSG and NiSource, DTE 98-31 (1999), and represent a complete lack of commitment to BSG consumers. *See* UWUA Ex. 4 at 45. During these hearings, Bay State representatives expressed the Bay State's clear intention to "avoid layoffs at Bay State," maintain customer service, and to "strong local presence, including maintaining its Westborough headquarters." Tr. at 1634; UWUA Ex. 4 at 21. Despite these platitudes, the workforce at BSG has declined precipitously and customer service has declined proportionately.<sup>10</sup> In fact, the

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<sup>8</sup> Northern Utilities was required to refund approximately \$130,000 to consumers as a result of the investigation into billing irregularities. Tr. at 1644-45.

<sup>9</sup> Not surprisingly, all but one of the full-time positions filled in the Call Center subsequent to the hiring freeze were filled with part-time employees, who have substantially fewer benefits under the collective bargaining agreements between the USWA and BSG. BSG Response to USWA-RR-3. Prior to May 1, 2004, part-time employees were not eligible for company sponsored health benefits or sick time, or premium rate pay if they worked during the weekend or nights. BSG Response to USWA 2-22. Since May 1, 2004, part-time employees receive sick time on a pro-rated basis and premium pay for working weekends, but do not receive any subsidized health insurance benefits from the Company. *Id.*

<sup>10</sup> Concurrently, NiSource have also reduced BSG capital expenditures considerably from 2000-2003. Tr. 1637-38. Bluntly, capital investment during each year between 2000-2003 was approximately half of what it was during the test year, 2004. Tr. at 2629-30.

only improvements in staffing and SQIs occurred either during or directly preceding the rate year in this case, 2004. Thus, BSG's statements and promises regarding customer service and staffing levels, over which BSG has no control, are inherently suspect.

**B. Similarly, BSG Has Admitted that Its Principals Have Had No Role in the Formulation of the NiSource-IBM Agreement (Which Will Likely Result in the Outsourcing of All Call Center Positions at BSG) and Have No Control Over Whether Call Center Jobs Are Outsourced Under the NiSource-IBM Agreement**

Subsequent to BSG filing the instant rate case, BSG's parent company, NiSource, entered into a 1.6 billion dollar agreement with IBM to provide technology and services, including customer service to various affiliates, including BSG.<sup>11</sup> On June 21, 2005, BSG informed its employees all customer call center positions located at the Springfield facility, constituting approximately 70 non-exempt employees, would likely be eliminated or outsourced to IBM.<sup>12</sup> See USWA Ex. 1, Attachment JA-3.

Affected job titles to be laid off include all Springfield Customer Call Center Customer Service Representatives. *Id.* Furthermore, the Company has informed its employees, that their jobs will likely be moved to the Call Center in Smithfield, Pennsylvania, administered by IBM,

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<sup>11</sup> Curiously, although NiSource claims that this contract will result in \$530,000,000 in cumulative cost savings, the Company has refused to provide the Department or any of the intervenors data with regard to projected cost savings at BSG. See footnote 1, *supra*. Moreover, at hearing, the Company has repeatedly evaded the question of whether these cost savings will be passed down to consumers. BSG Response to AG 18-08.

<sup>12</sup> During the pendency of this case, the Company has taken great pains to suggest that "nothing has been decided" with regard to outsourcing at Bay State Gas, and that the IBM agreement will only be adopted if negotiations between the Company and its Unions fail. While the Company claims that nothing has been decided, this is highly disingenuous given its actions with its employees. Tr. at 1692-93; USWA Ex 1 at 15.

Specifically, since June 21, 2005, press reports have circulated stating that NiSource intends to outsource or lay off 1,017 current employees, and the agreement between NiSource and IBM contemplates the outsourcing/lay off of BSG employees as part of that total. Ajar at 15. Furthermore, Pat Teague, manager of the Springfield call center informed Jody Ajar "that the Company wanted to outsource the entire Call Center," although the Company intends to go through the motions of meeting with USWA before proceeding with this plan. USWA Ex. 1 at 16. NiSource has formally announced that "IBM [proposes] to consolidate work from our New England customer contact center (at Springfield, Mass.) into our Smithfield, Pa. customer contact center." USWA Ex. 1 at attachment USWA-JA-3.

or Vertex, a second tier contractor. *Id.*

Despite the obvious and serious impact of this agreement on BSC's provision of customer service, and BSG President Bryant's purported and continuing duty to ensure that BSG meets applicable SQIs, Bryant testified that neither he nor any employee of Bay State had reviewed the contract prior to its execution, nor had any substantive input in the terms of the agreement with regard to the development of service quality standards or staffing levels at the Call Center and whether positions remained within Bay State. Tr. at 3156-57; Tr. at 3208-09; Tr. at 3235. Additionally, Bryant testified that no one at BSG had evaluated IBM's cyber-security provisions for protecting customer data, all of which is necessary to perform Call Center job duties. Tr. at 3221.

Furthermore, Bryant's responses to the USWA's record requests demonstrate that, to date, he has neither solicited nor received any other information regarding how IBM intends to administer BSG calls at the Smithfield, PA call center, to which all BSC Call Center positions will initially be moved under the agreement, nor compared business cases in which IBM or Vertex's managed of call centers for other companies. *See* Tr. at 3209-10; USWA-RR-11; USWA-RR-13.

Rather, only NiSource employees have been tasked with performing due diligence on the IBM-NiSource Agreement, including IBM's ability to provide proper service quality. Tr. at 3212-13. Furthermore, NiSource rather than BSG, negotiated and or reviewed all customer service representative training, benchmarks for customer service, and minimum and target customer service standards for BSG under the IBM-NiSource Agreement. Tr. at 197, 3214, 3217. Finally, while Bryant claimed that once the Agreement was implemented, he would be responsible for ensuring service quality, he was unable to provide any testimony regarding the

measures BSG intended to take to ensure IBM met its BSG's SQIs. Tr. at 254-55; 3209-10.

Complimentarily, BSG has had no role in determining whether Call Center and other Customer Service positions will remain within BSG, or be outsourced to IBM through the IBM-NiSource Agreement. NiSource, rather than BSG, sought negotiations with BSG constituent Unions over its decision to outsource Call Center and Billing Center functions. *See* UWUA Ex. 2; Tr. at 204-05. Furthermore, only NiSource employees are scheduled to be present and lead negotiations over BSG's proposal to outsource positions to IBM. Tr. at 1697-98. Any proposals regarding outsourcing the Springfield Call Center will be drafted by NiSource, rather than bay state. Tr. at 1698. Most importantly, ultimately NiSource, and not Bay State, will make the decision about whether to outsource bargaining Unit positions under the IBM-NiSource Agreement. Tr. at 1699. Thus, BSG has no means of controlling how customer service will be provided to BSG customers in the future, but rather, it must rely exclusively on NiSources' negotiating and decision making.

On re-direct, the Company elicited testimony from Bryant, implying that BSG, if dissatisfied with IBM's performance of customer service SQIs, could seek out an alternative source of services. Tr. at 3309-10. Given the evidence provided above, this result is highly improbable. Neither Bryant, nor any other employee of Bay State, has been able to ensure proper staffing levels at BSG since NiSource took over in 1999, and no BSG employee has had any role in developing or analyzing the costs and benefits of service quality/staffing elements of the NiSource-IBM agreement with regard to the Springfield Call Center.

In short, BSG has demonstrated during the course of this hearing that: 1) since its merger with NiSource, it has been unable to consistently secure appropriate staffing to maintain its SQIs, and 2) that it has no control over, nor a means to assess whether, it will be able to secure



appropriate staffing and meet SQIs in the future under the IBM-NiSource Agreement or any alternative agreement negotiated with the USWA. As stated and demonstrated at length in the Testimony of Nancy Brockway, outsourcing is not a solution for poor management and short staffing at BSG's Springfield Call Center. UWUA Ex. 4 at 37-46. Interposing another layer of management, giving BSG even less control over the actual results at its Call Center, thereby creating less accountability to the public receiving services, and using customer service representatives unfamiliar with the community that BSG serves, and eliminating all Call Center collective experience/historical memory in meeting customer service inquiries can only serve to further frustrate BSG's fulfillment of its SQIs. *See* Tr. at 2682; BSG Response to UWUA 1-35 (average years of experience among clerical employees at BSG is 9.5 years).

**C. Since BSG merged with NiSource, BSG has Engaged in Tactics That are Not Consistent with Providing Quality Customer Service to Meet Its Service Quality Indicators Demonstrating the Urgent need for DTE to Provide Diligent Oversight in the Wake of this Case.**

As discussed above, between 1999 and 2003, the BSC Call Center lost fifty-one (51) customer service representatives. Additionally, as of June 1, 2001, the Company shut its five Walk-In Customer Service Centers. Tr. at 1661-62. In the last year that the walk-in centers were operating, 34,270 customers, constituting over 10% of all Bay State employees utilized the walk-in centers. USWA 2-2; Tr. at 2684. Moreover, cumulatively, the walk-in centers employed fifteen and one half (15 ½) BSG employees.

When the Walk-In Centers were closed, the Springfield call center absorbed the resulting call volume. Only three additional customer service representatives were hired at the Springfield Call Center to accommodate additionally Call Center volume. Tr. at 3134. As a result, the Springfield Call Center was now responsible for multiple tasks including, the processing of

customer accounts such as verifying customer accounts, the verification of social security numbers, the verification of documentation regarding the renewal of service, paperwork related to low-income assistance, and dealing with letters relating to billing problems. Tr. at 1659-60.

To make up for the shortfall in staffing, BSG took a number of significant and questionable measures. All Call Center representatives were consistently asked to do overtime to meet regulatory standards in Massachusetts, New Hampshire, and Maine and Springfield Call Center hours of operation were reduced considerably. USWA Ex. 1 at 3-4, 7-8. In addition, the Company engaged in a number of questionable tactics that were used to bolster their Service Quality Indicators within New Hampshire, Maine and Massachusetts, often at the expense of their other jurisdictions and or their employees' working conditions.

1. For At Least Two Years, BSG forced Billing, Credit, and Service Representatives to Answer Calls for Which They Were Not Trained.

Prior to 2001, incoming calls for billing, credit and service departments were separated into three phone queues. Billing, credit, and service calls and were answered by representatives hired, trained, and assigned exclusively to answering billing, credit, or service queues.<sup>13</sup> USWA Ex. 1 at 3-4.

Notwithstanding the significant differences in training and on-the-job knowledge from some time in 2001 to July 29, 2003, service, billing and credit representatives were forced to take

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<sup>13</sup> Training for the service, billing, and credit positions varied considerably. *Id.* Job applicants were hired specifically for service, credit or billing positions and attended training specific to their positions. *Id.* Service representatives received two weeks of basic classroom training, focusing mainly on the products and repair services the Company provided to consumers, plus several weeks of sitting with an on-the-job representative, before answering calls on their own. *Id.* at 4.

In contrast, credit and billing representatives had a lot more initial class room and on the job training. Additionally, this training was more intensive and related to various state regulations affecting utilities credit and billing issues (respectively). *Id.* at 4. Credit and billing representatives were also required to attend on-going classroom training and mentoring throughout their first two years at the Company and observe seasoned credit and billing representatives (respectively). *Id.* at 4. New credit and billing representatives were unlikely to answer calls on their own for several months after beginning work at the Call Center. *Id.* at 4. Complete training of new billing representatives took approximately two years. *Id.* at 4.

all types of customer calls, even though they weren't trained to take all calls and had no way of responding appropriately to the calls. Tr. at 3146. Call Center Representatives were bluffing their way through calls. As a result, morale was down significantly and customer service suffered. *Id.*

2. In order to bolster its SQIs in New Hampshire and Maine, BSG assigned Call Center Employees to Staff An Exclusive Northern Utilities Queue

In response to investigations regarding service quality improprieties by the New Hampshire and Maine Public Utilities Commissions in 2002, BSG began requesting volunteers to exclusively staff a Northern Utilities queue to meet Northern Utilities SQIs. Tr. at 2616, 3140. Prior to BSG establishing the exclusive Northern Utilities queue, all Northern Utilities and BSG customer calls were co-mingled. USWA Ex. 1 at 13. At its high point, there were between 10-13 customer service representatives staffing the Northern Utilities queue. *Id.* This practice continued through 2003. USWA Ex. 1 at 13, Attachment JA-2; Tr. at 2617. The effect of this process was to further reduce the number of Call Center representatives available to answer BSG customer service calls. USWA Ex. 1 at 13-14.

3. To Increase the Number of Calls Answered, Call Center Representatives Have Regularly Be Assigned Taking Messages Exclusively Rather Than Answering and Resolving Calls

At hearing, Bryant admitted that Call Center representatives have consistently been assigned to take messages from consumers, rather than complete calls during busy times while the Call Center is opened, and that these calls are recorded by BSG as calls answered for the purpose of tallying SQIs. Tr. at 229-230. Customer messages are then returned after the Call Center has officially closed for the day. Tr. at 3147-48. Further, Pat Teague, the Call Center Manager, testified that during peak periods, which may occur throughout the year, Call Center employees may be assigned to taken messages on a daily basis. Tr. at 3147. However, evidence was

presented by the Union that this practice occurs nearly every month, during the last two weeks of the month, when either BSG or Northern Utilities was at risk of missing their SQIs. USWA Ex. 1 at 12. As many as four customer service representatives may be assigned at a time to answering messages exclusively. *See id.* This both artificially improves BSG's SQI for calls answered within 30 seconds, and increases the need for employees to work overtime once the Call Center has closed.

4. From approximately 1999-2002, BSG closed at least one of its trunk lines, thereby diminishing customer access to the Call Center and Propping Up Its SQIs.

As evidenced at hearing, telephone trunk lines determine the number of calls that can be handled within the Springfield Call Center simultaneously. Tr. at 2057-58. As provided in testimony, trunk lines create a queue for in-coming calls to the Call Center. *Id.* If a trunk line is turned off or eliminated, or if there are not enough trunk lines generally, then callers get a busy signal when available extensions are full. *Id.* Callers receiving a busy signal are not counted as calls unanswered for the purpose of monitoring SQIs. Tr. at 226-27; 2058.

At hearing and in response to USWA information requests, Bryant repeatedly insisted that trunk lines had only been increased, not decreased, despite repeated information requests by the USWA and testimony presented by the USWA to the contrary. Tr. at 226; BSG Response to USWA 2-14; *cf.* USWA Ex. 1 at 10. Mr. Bryant was ultimately required to correct his testimony to state that, in fact, trunk lines had been shut down in 1998 or 1999 to make up for deficient staffing and that an additional trunk line had only been added in 2002. Tr. at 3298-99. Furthermore, he admitted that the purpose of eliminating the trunk line was to stop callers from queuing in exceptionally long lines, thereby driving up response times. Tr. at 3329-30.

5. In 2002-2003, BSG Attempted to Fill Its Staffing Deficiency With Employees Willing to Work Overtime Rather than Hire New Employees.

During the hiring freeze, from 2001-2003, BSG used overtime to bolster staffing and SQIs at the Springfield Call Center. In 2002 and 2003, respectively, BSG spent over \$200,000 per a year on overtime pay for the Springfield Call Center. See BSG Response to USWA 2-21. In 2004, overtime spending at the Call Center decreased by over \$40,000 (over 2000 less hours) from 2003; this was likely the result of increased hiring in late 2003 and 2004, providing the Call Center with additional staffing for the first time in four years. Tr. at 3152-54.

Overtime is still used to meet SQIs on a very regular basis, “whenever the Call Center needs it.” Tr. at 3171-72. Due to the urgent need to meet Call Center numbers, the Call Center Manager often offers “open overtime” meaning that any one can sign up for as much overtime as he or she can fill; as many as 10 or 14 people may volunteer a day for open overtime. *Id.* This can mean that overtime is available to all volunteers every day in the last half of each month so that the Call Center can make its SQIs. USWA Ex. 1 at 14. In 2004, the Springfield Call Center still spent over \$150,000 in overtime. BSC Response to USWA 2-20.

### **III. Argument**

#### **A. Given the BSG’s Complete Inability to Control Staffing Levels, Even in Circumstances in Which Its Service Quality is At Issue, And Its Complete Disengagement from the Decision to Outsource the Springfield Call Center under the IBM-NiSource Agreement, the Department Should Set Minimum Staffing Levels Pursuant to G.L. c. 164 § 1E, F, to Ensure that Customer Service At BSG Does Not Deteriorate Further.**

On November 25, 1997, the Restructuring Act was enacted, authorizing the Department to promulgate rules and regulations to establish PBR rates for each utility company. *See Boston Gas Co.*, DTE 99-84. The statute directs the Department to establish service quality standards for a variety of service quality categories. *Id.* Importantly, the plain language of the G.L. c. 164

§ 1E(a) provides the Department authority to “promulgate . . . performance based rate schemes,” and in doing so, “establish service quality standards” that “shall include benchmarks for employee staff levels . . . for each such distribution, transmission, and gas company.” *Id.* Further, the Department is authorized to protect service quality in accordance ch. 164, §1F(7); ch. 164, § 76 (general authority). Finally, G.L. c. 164 § 1E(b) states that “a . . . gas company that makes a performance based rate filing . . . *shall not be allowed to engage in labor displacement or reductions below staffing levels in existence on November 1, 1997*, unless such are part of a collective bargaining agreement . . . or with the approval of the department following an evidentiary hearing at which *the burden shall be upon the company to demonstrate that such staffing reductions shall not adversely disrupt service quality standards . . .*” (Emphasis added).

As stated above, since NiSource and BSG merged in 1999, BSG has lost over 30% of its total employees. Furthermore, BSG continued to lose staff at the Springfield Call Center, even after it was apparent that low staff levels were creating a service quality crisis from 2000 to 2003. Additionally, as provided above in detail, it is readily apparent that NiSource, rather than BSG, controls all staffing decisions BSG, has acted without regard for the Department’s Service Quality standards in the past and will continue to do so if staffing levels are not set in this case. Moreover, the IBM-NiSource Agreement, which was negotiated without any oversight or input from BSG management, would have a serious and negative impact on BSG customer service specifically and Massachusetts generally, if implemented. As in evidence above, outsourcing the Springfield Call Center would be disastrous for Call Center employees and their families. The vast majority of Call Center employees are the sole breadwinners in their families and the only source of health insurance; moreover, there are few if any comparable positions

available in the Springfield metropolitan area. Furthermore, no evidence was provided by BSG that outsourcing the Call Center will result in any service quality benefits or cost savings for consumers. Additionally, as expressed by Ms. Brockway in her testimony, the results of outsourcing are mixed at best and could result in a serious diminution in customer service. UWUA Ex. 4, 37-45.

Although the Department has yet to set staffing levels for any utility within its jurisdiction, the facts herein commend that the Department take unprecedented action to promote service quality for BSG consumers.

Setting staffing levels, is completely consistent with the Department's authority under G.L. c. 164 § 1E(a), (b). There is no dispute that BSG has engaged in a "performance based rate filing. See Tr. at 1920. Similarly, it is uncontested that staffing levels at BSG have declined well below 1997 levels, contrary to the provisions of c. 164 § 1E (b). *Id.* at 1921. Staffing reductions at the Springfield Call Center, have not been ordained or in any way authorized by the collective bargaining agreement between BSG and the USWA. USWA Ex. 1 at 14-15. Furthermore, the evidence provides above demonstrates that service quality has been detrimentally affected by BSG's failure to maintain staffing at the Springfield Call Center. See Section II, *supra*.

Furthermore, the Department should take additional measures to protect service quality, as authorized by G.L. c. 164 §§ 1F(7), 76, by stringently enforcing currently service quality standards for BSG and/or by creating stronger service qualities measures to which BSG is held accountable on a more frequent basis.

#### **IV. Conclusion**

For the reasons submitted herein, the USWA respectfully requests that any order by the Department approving BSG's PBR request include minimum staffing requirements and all other measures necessary to ensure the maintenance of service quality for BSG's customers and Massachusetts consumers generally.

Respectfully submitted,

UNITED STEELWORKERS OF AMERICA, AFL-  
CIO/CLC

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#### **IV. Proposed findings – Proposed Form of Order or Rule**

→ SQIs: based on national standards—not historical performance of company

→ staffing levels—set at base

Brockway rec: “I recommend that the Department set staffing benchmarks such that Massachusetts employment be maintained at current levels unless and until the company demonstrates to the satisfaction of the department that any staffing reductions or outsourcing are consistent with all collective bargaining agreements and will not put service quality and reliability at risk.” 2658-59.

→ Consistent w/Union contract to provide for min. staffing—as not set forth in K—Agreement state’s adherence to law.

→ Following Brockway’s testimony—staffing should be set at the highest level for 12 months. Tr. at 2655.

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